



**NOTICE OF  
SPECIAL MEETING OF THE TOWN COUNCIL  
HICKORY CREEK TOWN HALL  
1075 RONALD REAGAN AVENUE, HICKORY CREEK, TEXAS 75065  
SATURDAY, DECEMBER 21, 2024, 11:30 AM**

**AGENDA**

**Call to Order**

**Roll Call**

**Pledge of Allegiance to the U.S. And Texas Flags**

**Invocation**

**Public Comment**

This item allows the public an opportunity to address the Town Council. To comply with the provisions of the Open Meetings Act, the Town Council cannot discuss or take action on items brought before them not posted on the agenda. Please complete a request if you wish to address the Town Council. Comments will be limited to three minutes. Open Forum is for information only. No charges and/or complaints will be heard against any elected official, board member, the Town, or employee of the Town that are prohibited by law.

**Regular Agenda**

- 1.** Consider and act on a resolution of the Town Council of the Town of Hickory Creek, Texas ("TOWN") denying the increase in rates proposed by Atmos Energy Corporation in its Mid-Tex Division filed on about December 16, 2024; authorizing intervention in proceedings related to Atmos Energy's application to increase rates; authorizing special counsel to represent the Town in matters related to Atmos Energy's proposed increase in rates; directing Atmos to reimburse rate case expenses.

**Adjournment**

The Town Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Chapter 551.

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact Town Hall at 940-497-2528 or by fax 940-497-3531 so that appropriate arrangements can be made.

I, Kristi Rogers, Town Secretary, for the Town of Hickory Creek certify that this meeting notice was posted on the bulletin board at Town Hall, 1075 Ronald Reagan Avenue, Hickory Creek, Texas on December 18, 2024 at 11:30 a.m.

A handwritten signature in black ink, appearing to read "Kristi D. Rogers", is written over a horizontal line.

Kristi Rogers, Town Secretary  
Town of Hickory Creek

## AGENDA INFORMATION SHEET

**DENIAL OF ATMOS ENERGY CORPORATION'S APPLICATION FILED ON ABOUT DECEMBER 16, 2024, PROPOSING TO INCREASE IN-TOWN RATES FOR ITS MID-TEX DIVISION; AUTHORIZING PARTICIPATION IN THE ATMOS TEXAS MUNICIPALITIES (ATM) COALITION OF CITIES; AUTHORIZING INTERVENTION IN PROCEEDINGS RELATED TO ATMOS ENERGY'S STATEMENT OF INTENT; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING REPRESENTATION OF THE TOWN BY SPECIAL COUNSEL**

### **BACKGROUND**

On about December 16, 2024, Atmos Energy Corporation (Atmos or Atmos Energy) filed a Statement of Intent to increase its base rate revenues for its Mid-Tex Division within certain cities, by approximately **\$16.73 million**; this equates to an **increase in annual revenue of about 7.08% including gas costs, and 11.51% excluding gas costs**. This is Atmos's first request to increase its base rates since 2018. Following the conclusion of its 2018 rate gas (Gas Utilities Docket No. 10742), Atmos has raised its rates by means of six Interim Rates Adjustment ("IRA") filings, also known as "GRIP" filings.

Atmos proposes an effective date of January 20, 2025, for its change in rates. As is explained below, the proposed Resolution related to Atmos's application to increase its base rate revenues, if adopted, denies the proposed increase in rates.

Crucially, on November 18, 2024, Atmos filed with the Railroad Commission of Texas (RRC or Commission) substantially the same proposal to increase rates. Because Atmos filed its application to increase rates with the RRC several weeks before it filed the same application with the Town, and other similarly situated cities, the time line for the RRC to issue a decision regarding Atmos's application with the RRC is such that by the time the Town's statutory deadline to make its decision regarding the application Atmos filed with the Town, the RRC proceedings will be close to, if not at, their end. Thus, it is highly likely the RRC will make a decision on the merits of Atmos's application before the Town completes its review and makes its decision.

### **BILL IMPACT:**

On average, Atmos' proposed increase if approved as filed would result in an increase of about 14.05% in a residential customer's bill excluding the cost of gas, and about 9.41% including the cost of gas. The effect of Atmos' proposed increase in rates for a residential customer using average consumption of gas is shown in the table below:

ATMOS ENERGY CORP., MID-TEX DIVISION								
ATMOS TEXAS MUNICIPALITIES ("ATM") STATEMENT OF INTENT								
AVERAGE BILL COMPARISON - BASE RATES								
TEST YEAR ENDING JUNE 30, 2024								
Line No.	Description	Average Volumes	Current Rates	Proposed Rates	Current Average Bill	Proposed Average Bill	Amount Change	Percent Change
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	<b>Rate R at 32.6 Ccf</b>							
2	Base Rates:							
3	Customer Charge		\$ 47.91	\$ 47.91	\$ 47.91	\$ 47.91	\$ -	
4	Consumption Charge (Ccf)	32.6	\$ 0.14846	\$ 0.37584	4.84	12.25	7.41	
5	Total Base Rates				\$ 52.75	\$ 60.16	\$ 7.41	14.05%
6								
7	Gas Cost:							
8	Rider GCR Part A (Ccf)	32.6	\$ 0.25792	\$ 0.25792	\$ 8.41	\$ 8.41	\$ -	
9	Rider GCR Part B (Ccf)	32.6	\$ 0.53771	\$ 0.53771	17.53	17.53	-	
10	Total Gas Cost				\$ 25.94	\$ 25.94	\$ -	0.00%
11								
12	Total Base with Gas Cost				\$ 78.69	\$ 86.10	\$ 7.41	
13	Rider FF and Rider TAX		0.06788	0.06788	5.34	5.84	0.50	9.36%
14								
15	Total Residential Average Bill				\$ 84.03	\$ 91.94	\$ 7.91	9.41%

Atmos proposes to leave rates for Commercial, Industrial, and Transportation customers unchanged.

#### **REVENUE IMPACT:**

Because of the substantial increase in rates to the Residential class of customers the Town should closely scrutinize Atmos’s proposed increase as well as its proposed allocation of costs to the customer classes.

#### **ACTION REQUIRED BY JANUARY 20, 2025**

**The Town must take action on Atmos’s Statement of Intent by no later than January 20, 2025.** Absent such action, Atmos’s proposed rates are deemed approved by operation of law.

#### **ATMOS TEXAS MUNICIPALITIES**

The coalition of cities known as the Atmos Texas Municipalities (“ATM”) was organized by a number of municipalities served by Atmos. Alfred R. Herrera, with the law firm of Herrera Law & Associates, PLLC, has previously represented ATM in rate cases involving Atmos.

#### **TOWN JURISDICTION TO SET ATMOS’S RATES**

Unless a town ceded its original jurisdiction to the Railroad Commission of Texas, the Gas Utility Regulatory Act § 103.001 grants a town exclusive original jurisdiction over a gas utility’s rates, services, and operations within the town limits. But even if a town has ceded its jurisdiction to the Railroad Commission, the Gas Utility Regulatory Act § 103.023 (“GURA”), grants a town the statutory right to participate in rate proceedings before the Railroad Commission.

## **RATE CASE EXPENSES**

Cities by statute are entitled to recover their reasonable rate case expenses from the utility. See GURA § 103.022. Legal counsel and consultants approved by ATM will submit monthly invoices to the coalition-designated town that will be forwarded to ATM for reimbursement. No individual town's budget is negatively affected.

## **OPTIONS FOR TOWN ACTION:**

The Town has three options with respect to the action it takes regarding Atmos's application to increase rates:

1. The Town could take no action, and under state law, Atmos's proposed increase in revenue and change in rates would be deemed approved by operation of law and go into effect on Atmos's proposed effective date, January 20, 2025;
2. The Town may suspend Atmos's proposed effective date of January 20, 2025, for its increase, for the statutorily allowed period of 90 days, which means the suspension would expire on April 20, 2025. If the Town suspends Atmos's proposed effective date, the Town will need to take final action on the merits of Atmos's proposed increase in revenue and rates by no later than April 20, 2025;
3. The Town may deny Atmos's proposed increase in revenue and rates; if the Town denies Atmos's proposed increase, Atmos will have the right to appeal the Town's action to the Railroad Commission of Texas, which it would do.

## **RECOMMENDATION**

ATM's Special Counsel recommends that the Town join or continue its participation in ATM and retain the law firm of Herrera Law & Associates, PLLC to represent the Town's interest in matters related to Atmos's rate case and to advise the Town with regard to Atmos's application, and that, intervene in the proceedings before the Railroad Commission of Texas related to Atmos's rates for its Mid-Tex Division, and related court appeals, if any.

As noted above, because Atmos filed its application to increase rates with the RRC several weeks before it filed the same application with the Twon, it is highly likely the RRC will make a decision on the merits of Atmos's application pending before the RRC, well ahead of the time the Town completes its review and makes its final decision on Atmos's application it filed with the Town.

Thus, while the Town could adopt a resolution suspending Atmos's proposed effective date for the statutorily allowed period, and not make a final decision until close to the end of the suspension period – April 20, 2025 – ATM's Special Counsel recommends the Town adopt a resolution denying Atmos's proposed increase in rates, and that the Town do so as expeditiously as possible.

Otherwise, if the Town adopts a "suspension" resolution, it is highly likely the RRC would have reached its decision on the merits of the application Atmos filed with the RRC, before Atmos even files its appeal of the Town's decision. This means that the Town will have had no opportunity to influence the RRC's decision and it is highly unlikely the RRC would change its decisions on any appeal Atmos files from the Town's actions on the merits of Atmos's proposed increase in rates.

Crucially, though the Town, as part of ATM, has filed a motion to intervene in Atmos's pending rate case at the RRC, Atmos has informed ATM's Special Counsel that Atmos will object to ATM's intervention and there is the risk that the RRC's administrative law judge will sustain Atmos' objection keeping ATM out of the case Atmos filed with the RRC. The ALJ is not expected to make a decision on ATM's motion to intervene until sometime after December 16, 2024, at the earliest.

**So, ATM's Special Counsel strongly advises the Town to adopt a resolution denying Atmos's proposed increase in rates, and that it do so as expeditiously as possible. Doing so ensures that Atmos will appeal the Town's decision to the RRC on a more expedited time frame, thus assuring ATM's right to intervene in the proceedings at the RRC.**

If adopted, the accompanying resolution:

1. Denies Atmos's proposed increase in rates;
2. Authorizes Herrera Law & Associates, PLLC to represent the Town through ATM in proceedings related to Atmos's proposal to increase rates;
3. Directs Atmos to reimburse ATM's rate-case expenses.

**The Town must take action no later than January 20, 2025. If the Town does not take action by January 20, 2025, Atmos's proposed rates will be deemed approved by operation of law. Though the Town has until January 20, 2025, to take action, to maximize ATM's participation in proceedings pending at the RRC, Special Counsel advises the Town to adopt the denial resolution as expeditiously as possible.**

**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2024-1221-1**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS (“TOWN”) DENYING THE INCREASE IN RATES PROPOSED BY ATMOS ENERGY CORPORATION IN ITS MID-TEX DIVISION FILED ON ABOUT DECEMBER 16, 2024; AUTHORIZING INTERVENTION IN PROCEEDINGS RELATED TO ATMOS ENERGY’S APPLICATION TO INCREASE RATES; AUTHORIZING SPECIAL COUNSEL TO REPRESENT THE TOWN IN MATTERS RELATED TO ATMOS ENERGY’S PROPOSED INCREASE IN RATES; DIRECTING ATMOS TO REIMBURSE RATE CASE EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE**

**WHEREAS**, Atmos Energy Corporation (“Atmos” or “Company”) filed a Statement of Intent with the Town on about December 16, 2024, to change its rate schedules within the corporate limits of this municipality, specifically to increase its annual revenue requirement by approximately \$16.73 million, which represents an increase in base rates of about 11.51%, excluding the cost of gas, and about 7.08% including the cost of gas; and

**WHEREAS**, the Town is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under Chapter 103, §103.001 et seq. of GURA has exclusive original jurisdiction over Atmos’s rates, operations, and services within the municipality; and

**WHEREAS**, to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating Atmos’s rate request and its changes in tariffs, the Town joins with other local regulatory authorities to form an alliance of cities known as the Atmos Texas Municipalities (“ATM”); and

**WHEREAS**, Atmos’s rate request consists of a voluminous amount of information including Atmos’s rate-filing package, exhibits, schedules, and workpapers; and

**WHEREAS**, Atmos’s rate application is the Company’s first general rate case since about 2018, and follows six consecutive annual increases in rates pursuant to the Interim Rate Adjustment (“IRA”) mechanism, also known as “GRIP” filings; and

**WHEREAS**, Atmos proposed January 20, 2024, as the effective date for its requested increase in rates; and

**WHEREAS**, the Town will require the assistance of specialized legal counsel and rate experts to review the merits of Atmos’s application to increase rates; and

**WHEREAS**, Atmos’s application fails to establish that its overall revenue request resulted in no more than an amount that will permit Atmos a reasonable opportunity to earn a reasonable return on the utility’s invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses; and

**WHEREAS**, Atmos’s application fails to establish that its proposed rates are just and reasonable; and

**WHEREAS**, Atmos may exercise its statutory right to appeal a Town decision regarding Atmos’s request to increase rates to the Railroad Commission of Texas; and

**WHEREAS**, Atmos filed its Statement of Intent to increase its revenue and change its rate with the Town after it filed a substantially similar application with the Railroad Commission of Texas, and the decision of the Railroad Commission of Texas will have a direct impact on the Town and its citizens who are customers of Atmos, and in order for the Town’s participation to be meaningful, it is important that the Town intervene in any such proceedings at the Railroad Commission of Texas related to Atmos’s application to increase rates.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS THAT:**

**Section 1.** The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.



**Section 2.** Atmos’s application fails to show that its proposed rates are just and reasonable.

**Section 3.** The Town hereby **DENIES** Atmos’s request to increase its revenue and change its rates and in support of **DENIAL** finds that:

- A.** Atmos failed in its burden of proof to establish that its requested increase in revenue or the changes set forth in its tariffs attached to Atmos’s Statement of Intent to change rates, results in just and reasonable rates;
- B.** Atmos failed in its burden of proof to establish that adoption of its proposed rate base, expenses, investment, return on equity, and other rate issues as presented in Atmos’s Statement of Intent to increase rates, result in just and reasonable rates.

**Section 4.** The Town shall participate in a coalition of cities known as the Atmos Texas Municipalities (“ATM”), and authorizes intervention in proceedings related to Atmos’s Statement of Intent before the Railroad Commission of Texas and related proceedings in courts of law; and

**Section 5.** The Town hereby orders Atmos to reimburse the Town’s rate case expenses consistent with the Gas Utility Regulatory Act and that Atmos shall do so on a monthly basis and within 30 days after submission of the Town’s invoices for the Town’s reasonable costs associated with the Town’s activities related to this rate review or related to proceedings involving Atmos before the Town, the Railroad Commission of Texas, or any court of law.

**Section 6.** Subject to the right to terminate employment at any time, the Town retains and authorizes the law firm of Herrera Law & Associates, PLLC to act as Special Counsel with regard to rate proceedings involving Atmos before the Town, the Railroad Commission of Texas, or any court of law, and to retain such experts as may be reasonably necessary for review of Atmos’s rate application subject to approval by the steering committee of the ATM.

**Section 7.** The Town, in coordination with the Atmos Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to Atmos for reimbursement.

**Section 8.** A copy of this resolution shall be sent to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, P.O. Box 302799, Austin, Texas 78703, and a courtesy copy to Atmos’s local representative.

**Section 9.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 10.** This resolution shall become effective from and after its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 21<sup>st</sup> day of December, 2024.

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Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

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Dorwin L. Sargent, III, Town Attorney  
Town of Hickory Creek, Texas